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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,025	02/04/2004	Brad A. Armstrong	F2811	6101
25962 7590 09/10/2008 SLATER & MATSUI, L.L.P. 17950 PRESTON RD, SUITE 1000 DALLAS, TX 75252-5793				
EXAMINER				
BODDIE, WILLIAM				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
09/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/773,025

**Applicant(s)**

ARMSTRONG, BRAD A.

**Examiner**

WILLIAM L. BODDIE

**Art Unit**

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 9-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 6/27/08; 4/30/08; 3/25/08; 3/24/08; 3/19/08  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_



### **DETAILED ACTION**

1. In an amendment dated, July 21<sup>st</sup>, 2008 the Applicant cancelled claims 1-3, 5-8 and added new claims 9-14.

#### ***Information Disclosure Statement***

2. The information disclosure statement filed 4/30/08, 3/25/08 and two dated 3/24/08 fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because several items are undated. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 9-14 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (US 5,491,497) in view of Thomas, Jr. (US 5,128,671) and Sharp et al. (US 4,493,219) and further in view of Fan (US 5,926,168).

**With respect to claims 9, 11-12 and 14**, Suzuki discloses an image controller allowing control of an image generation device capable of creating three-dimensional imagery (col. 1, lines 7-11), the image controller comprising:

- a single input member (6 in fig. 2; for example) capable of being manipulated in six degrees of freedom (figs. 4a-11b) by a human hand;

- a circuit board having an upper surface and a lower surface (1 in fig. 2);

- a first sensor located on the upper surface of the circuit board (2a in fig. 2), the first sensor indicates manipulation of the single input member (figs. 4a-7b);

- a secondary input member capable of being manipulated by the human hand bidirectionally on at least one axis (19e-f in figs. 9a-b);

- two additional sensors located on the upper surface of the circuit board (2e-f in figs. 2 and 9a-b), the two additional sensors indicate movement of the secondary input member (figs. 8a-9b);

- one additional sensor located on the lower surface of the circuit board (4b in figs. 2 and 11a-b);

- a second sensor indicating rotation of the single input member (2b in fig. 2; figs. 8a-9b);

- two button sensors located on the upper surface of the circuit board (2c-d in fig. 2);

one button sensor located on the upper surface of the circuit board (2e in fig. 2);  
a transmitter allowing communication of signals from the controller to the image generation device, the information is useful to control the image generation device (inherently must have a transmitter of some sort to control a video game; col. 1, lines 7-11).

Suzuki does not expressly disclose proportional sensors, a transmitter for wireless communication or a battery compartment.

Thomas, Jr. discloses an image controller (fig. 1) comprising:

a transmitter allowing wireless communication of signals from a plurality of sensors (col. 3, lines 62-64), wherein the signals are useful to control the three-dimensional imagery (col. 3, lines 43-57); and

a battery compartment adapted to hold a battery for powering the image controller (col. 3, lines 65-68).

Thomas, Jr. and Suzuki are analogous art because they are all from the same field of endeavor namely multi-dimensional input devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the wireless and battery circuitry of Thomas, Jr. in the device of Suzuki for the well known benefit of increasing the portability of the device and lessened cable clutter in a desktop environment.

Neither Thomas, Jr. nor Suzuki expressly disclose proportional sensors.

Sharp discloses, a plurality of proportional sensors (fig. 13; col. 2, lines 43-54).

Sharp, Thomas, Jr. and Suzuki are analogous art because they are all from the same field of endeavor namely multi-dimensional input devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the sensors of Suzuki and Thomas, Jr. with the proportional sensors of Sharp for the well-known benefit of more precise inputs and advanced control.

Suzuki further discloses controlling a television game (col. 1, line 10), which has traditionally required control of channel switching, speaker volume and on/off functionality.

However, Suzuki, Figour and Thomas, Jr. do not expressly disclose that the buttons control channel switching, speaker volume and on/off functionality.

Fan discloses a remote control with buttons which control channel switching, speaker volume and on/off functionality (col. 29, lines 18-20).

Fan, Sharp, Thomas, Jr. and Suzuki are analogous art because they are all from the same field of endeavor namely multi-dimensional input devices.

At the time of the invention it would have been obvious to one of ordinary skill in the art to map the TV control functionality of Fan to the buttons of Sharp, Thomas, Jr., Rutledge and Suzuki for the benefit of achieving a more conventional TV control which users are familiar with (Fan; col. 26, lines 51-53).

**With respect to claims 10 and 13**, Thomas, Jr., Suzuki, Sharp and Fan disclose the image controller of claim 9 (see above).

Thomas, Jr., when combined with Suzuki, Sharp and Fan, further discloses, wherein said first proportional sensor is of a capacitive type (Sharp; abstract; col. 2, lines 46-48).

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM L. BODDIE** whose telephone number is (571)272-0666. The examiner can normally be reached on Monday through Friday, 7:30 - 4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone



number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William L Boddie/  
Examiner, Art Unit 2629  
9/2/08

/Sumati Lefkowitz/  
Supervisory Patent Examiner, Art Unit 2629